

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

AVERY MASON,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:06CV1786 CDP
)	
DAVE DORMIRE,)	
)	
Respondent.)	

ORDER

This matter is before the Court on the petition of Avery Mason for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

In accordance with 28 U.S.C. § 636(b), the habeas petition was referred to United States Magistrate Judge David D. Noce for his Report and Recommendation. On November 17, 2008, Judge Noce filed his Report and Recommendation, which recommends that I deny the petition because grounds one and two of Mason's petition are procedurally barred, and grounds three and four are without merit. Mason filed written objections to Judge Noce's report on November 26, 2008. I have conducted a de novo review of all matters relevant to the petition, and conclude that the petition should be denied for the reasons stated by Judge Noce. I will therefore adopt and sustain the thorough reasoning of Judge Noce.

Accordingly,


IT IS HEREBY ORDERED that the Report and Recommendation of United States Magistrate Judge David D. Noce [#14] is sustained, adopted, and incorporated herein.

IT IS FURTHER ORDERED that the petition of Avery Mason for writ of habeas corpus pursuant to 28 U.S.C. § 2254 [#1] is denied

IT IS FURTHER ORDERED that respondent's first motion to withdraw as attorney [#17] is granted.

IT IS FURTHER ORDERED that as Mason has not made a substantial showing of the denial of a constitutional right, this Court will not issue a certificate of appealability.

A separate judgment in accordance with this memorandum and order is entered this same date.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 16th day of June, 2009.